

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

David Bacchus,)	
)	
Plaintiff,)	Civil Action No. 6:09-1226-HMH-KFM
)	
vs.)	<u>ORDER</u>
)	
Major Dean, Associate Warden Bell,)	
and Investigator Greer,)	
)	
Defendants.)	
_____)	

This matter is before the court on the plaintiff's motion to compel (doc. 53) and motion to admit (doc. 54). The plaintiff, a state prisoner who is proceeding *pro se*, filed this action pursuant to Title 42, United States Code, Section 1983, claiming that his constitutional rights have been violated.

Pursuant to the provisions of Title 28, United States Code, Section 636(b)(1)(B), and Local Rule 73.02(B)(2)(d), D.S.C., this magistrate judge is authorized to review all pretrial matters in cases filed under Title 42, United States Code, Section 1983.

The plaintiff filed this action on May 13, 2009, claiming that the defendants improperly transferred him to Lee Correctional Institution's ("Lee") Special Management Unit ("SMU"). On July 15, 2009, the court issued a scheduling order requiring the defendants to file dispositive motions within 45 days after they filed an answer. The plaintiff submitted requests for production, and on September 4, 2009, the defendants served responses and objections to the requests for production. Def. resp., ex. A. The plaintiff did not file a motion to compel challenging the defendants' responses and objections. The defendants filed a motion for summary judgment on October 14, 2009. On or around February 8, 2010, the plaintiff submitted interrogatories to defendant Investigator Greer and defendant Associate

Warden Bell and a "motion to admit" to defendant Associate Warden Bell. On February 11, 2010, the defendants served responses to the interrogatories and the motion to admit. Def. resp., ex. B. The defendants objected to the discovery requests based on their untimeliness and requests for irrelevant information. The plaintiff subsequently filed the instant motions on February 22, 2010.

On March 1, 2010, the Honorable William M. Catoe, United States Magistrate Judge, issued a report in which he recommended that the defendants' summary judgment motion be granted. On March 17, 2010, the Honorable Henry M. Herlong, Jr., Senior United States District Judge, declined to adopt the recommendation and remanded this matter to the undersigned for consideration of an allegation raised by the plaintiff for the first time in his objections to the report. That allegation concerns the loss of good-time credits. On March 18, 2010, this court directed the defendants to file a supplemental motion for summary judgment on this new issue, which the defendants did on May 14, 2010. The plaintiff's response to that motion is due on or June 21, 2010.

This court has reviewed the defendants' objections to the interrogatories and requests to admit and finds that the objections are valid as the discovery requests were served some seven months after the answer was filed and are thus untimely. See Local Civil Rule 26.04 DSC. With regard to the defendants' responses to the plaintiff's requests for production, the plaintiff did not timely move to compel discovery.

Now, therefore, based upon the foregoing,

IT IS ORDERED that the motions (docs. 53 and 54) are denied.

IT IS SO ORDERED.

s/Kevin F. McDonald
United States Magistrate Judge

June 8, 2010

Greenville, South Carolina